

Fiscal Year 2010 DEQ Fee Proposal

Storm Water Fees

October 28, 2008

Program Description. The Michigan Department of Environmental Quality (MDEQ), Water Bureau (WB), has authority from the United States Environmental Protection Agency (USEPA) to implement the Federal Storm Water Program. Mandated by Congress under the Clean Water Act (CWA), the Federal Storm Water Program is a comprehensive, national program for addressing industrial, construction, and municipal sources of storm water discharges that adversely affect the quality of the nation's surface waters. The program uses National Pollutant Discharge Elimination System (NPDES) permits to prevent harmful pollutants from being discharged by storm water runoff into rivers, lakes, and wetlands.

MCL Citation. Sections 324.3118 and 324.3119 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, establish the current fund and fee structure.

Sunset Date. The storm water fees sunset on October 1, 2009.

Last Fee Increase. The last storm water fee increase was enacted in 2004.

Who Pays the Fees? The storm water annual fees are paid by approximately 330 Municipal Separate Storm Sewer Systems (MS4) owners or operators, consisting of cities, villages, townships, and counties, and approximately 3,300 industrial facilities that are billed annually. In addition, annually approximately 750 construction operators pay a one-time application fee.

Services Provided. Services provided include protection and enhancement of the surface waters. Program activities that support this service include permit issuance, compliance, enforcement, technical assistance, monitoring, data management, and water quality standards.

Benefits of the Services Provided. Benefits include the protection of public health and surface waters, sustainable ecosystems, and the support of a healthy economy. This is accomplished by promptly issuing permits and ensuring compliance and enforcement. Timely issuance of permits protects surface waters via permit requirements based on new treatment standards, water quality standards, monitoring, and facility inspection information. Technical services to the regulated community increases compliance with permit requirements. Another benefit is preventing delays for new construction and expansion of existing businesses, which are key to Michigan jobs.

What Happens Without the Services. Without the services, contaminated storm water and other pollutants can seriously degrade our waters and negatively impact public health and the environment. Specific examples of negative impacts include an increased need for fish consumption advisories, increases in nuisance weeds and algal blooms, and fish kills due to lower oxygen levels in the water. In addition, failure to provide timely issuance of permits may result in a loss of business and delays in remediation efforts.

Current Fee Revenue. The current fee system generates approximately \$1.84 million annually.

Proposed Fee Revenue. The proposed fees will generate a projected additional \$1,900,000, for an annual budget of \$3,740,000.

Service Improvements and Efficiencies. Key improvements made by the MDEQ since the fees were initiated in 2004 include:

- The MDEQ increased compliance by facilities that needed a storm water permit but had not applied for a permit before.

- The MDEQ converted from paper records to electronic records in the MDEQ databases. This saves the program time and materials.
- The MDEQ created Web access to permit information and implemented electronic public noticing on the MDEQ Web site. This allows the public access to permit-related information directly on the Web, instead of requesting the information and/or filing a Freedom of Information (FOIA) request. This also reduces the amount of staff time spent responding to these requests, thus reducing the MDEQ's costs.
- The MDEQ implemented the use of e-mail to send permit-related documents to applicants, instead of paper copies via mail services.
- The MDEQ consolidated field activities related to Construction Site Storm Water Permits and Soil Erosion and Sedimentation Control (SESC) to improve the efficiencies in our activities, decrease confusion among the regulated community, and reduce staff time required for conducting core program activities.
- The MDEQ consolidated the SESC and Construction Site Certified Operator Training into one training instead of having two separate trainings required.

Service Reductions. As a result of inadequate fees, the Storm Water Program was supplemented with Federal 106 funds to fund approximately 7 FTEs as a temporary measure until the fees are renewed. This form of "bridge funding" takes monies away from NPDES core activities, such as compliance and enforcement, monitoring, NPDES Permit Reissuance, and Total Maximum Daily Load studies. The current Storm Water Program is operating with reduced permit processing, compliance inspections, and enforcement.

Impact Without Fee Increases. Without the proposed fee increase, the program cannot meet its statutory responsibility to protect surface waters and process permits. Without adequate funding, the program would be scaled back or abolished. The impact of this would be permit issuance delays and backlogs, fewer inspections, and reduced monitoring. This will have a detrimental impact on the MDEQ's ability to protect human health and the environment and advance economic growth.

The MDEQ will not meet their USEPA commitments for permit reissuance and thus jeopardize federal funding and program delegation. The regulated community has long maintained its desire that the MDEQ administer the NPDES program, rather than the USEPA because the State is more accessible and has firm deadlines.

Without the fee increase, the program must continue to reduce its compliance efforts, including facility inspections and addressing facilities discharging without a permit. A credible compliance program is necessary so that water dischargers obtain and follow their permits. Without continued effort in this area, unpermitted facilities will have an unfair advantage over permitted facilities because they have not provided treatment to meet state standards. Also, fewer compliance inspections and technical assistance activities will result in an increased risk of pollutants being discharged from contaminated storm water.

Without the funding, permit issuance delays will result in adversely impacting entities that rely on timely permit processing for expansions or new facilities in the state. Businesses cannot build or expand in a timely fashion unless permits required by state law can be issued in a timely fashion. This could result in businesses choosing to locate outside of Michigan.

Another detrimental impact of a permit backlog is the delay in incorporating up-to-date requirements in permits. Timely reissuance of permits is needed to incorporate new water quality standards and treatment technology standards.

Storm Water Fees

Current Sunset – October 1, 2009

Type	Description		Current Fee	Proposed Fee
Construction Application Fee	A 1-time application fee is required for a permit related solely to a site of construction activity for each permitted site. The fee shall be submitted by the construction site permittee along with his or her Notice of Coverage (NOC). No application fee for sites 1 - 5 acres of disturbance.		\$400	\$1,425
Municipal Separate Storm Sewer System (MS4) Annual Fee	MS4 Population Range	0 – 1,000	\$500	\$750
		1,001 – 3,000	\$1,000	\$1,500
		3,001 – 10,000	\$2,000	\$3,000
		10,001 – 30,000	\$3,000	\$4,500
		30,001 – 50,000	\$4,000	\$6,000
		50,001 – 75,000	\$5,000	\$7,500
		75,001 – 100,000	\$6,000	\$9,000
		Greater than 100,000	\$7,000	\$10,500
	Counties		\$3,000	\$4,500
	Others		\$500	\$750
Industrial Annual Fee	An annual fee is required for a permit related solely to a storm water discharge associated with industrial activity or from a commercial site for which the MDEQ determines a permit is needed.		\$260	\$500

*The total generated by this fee proposal is \$3,740,000, which is the amount needed to fund the program for FY2010. This DRAFT fee proposal includes a provision for an annual inflation adjustment based on the Detroit Consumer Price Index (CPI) with no sunset date for this fee. However, the fee proposals included in the FY 2010 Executive Budget may not include a CPI adjustor. In that event, the DEQ proposes a sunset date for this fee.